

Chapter 463-14 WAC

POLICY AND INTERPRETATION

WAC

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WAC 463-14-010 Purpose of this chapter. The purpose of this chapter is to publicize significant policy determinations and interpretations by which the council is guided in implementing chapter 80.50 RCW and this title.

[Order 104, §463-14-010, filed 11/4/76.]

WAC 463-14-020 Need for energy--Legislative intent binding. RCW 80.50.010 requires the council "to recognize the pressing need for increased energy facilities." In acting upon any application for certification, the council action will be based on the policies and premises set forth in RCW 80.50.010 (1), (2), and (3).

[Order 104, §463-14-020, filed 11/4/76.]

WAC 463-14-030 Public meeting and hearings policy for application reviews. The council encourages, and will provide for, public participation in its public meetings and hearings during reviews of applications for site certification as afforded by law and rule. The following sets forth the public participation in those meetings and hearings as required in RCW 80.50.090, requires a minimum of two public hearings concerning each site for which certification is sought.

(1) ~~The first of these is the~~ The local public informational hearing as predescribed in RCW 80.50.090 (1) shall be held in the county of the proposed site. If the proposed site is located in more than one county a public informational hearing will be held in each county. This hearing shall be conducted in such a manner to foster general public comment on the proposed site. All persons shall be afforded an opportunity to comment to the council regarding the proposed site.

(2) The public land use consistency hearing as proscribed in RCW 80.50.090(2) shall be held and (2) where the council is obligated to determine whether or not the proposed use of the site is consistent and in compliance with county or regional land use plans or zoning ordinances at the time of application. If the proposed site is located in more than one county a land use consistency hearing will be held in each county. The council shall encourage public testimony at this hearing be specifically directed to this issue of consistency and compliance with county or regional land use plans or zoning ordinances. However, in order to foster general public comment on the proposed site, the council will allow general public comment at such local public hearings, wherever possible. The council must also conduct a second

(3) Although all persons desirous of participating may not be accorded "party" status in the public hearing held as an adjudicative proceeding under chapter 34.05 RCW, prior to preparation of any recommendation to the governor, the council shall, ~~Although all persons desirous of participating may not be accorded "party" status in this proceeding,~~ upon compliance with reasonable procedures, allow any person desiring to be heard ~~shall be allowed~~ to speak in favor of or in opposition to the proposed site facility after the close of the evidentiary hearing but prior to preparation of any recommendation to the governor.

(4) The council views the provisions of RCW 80.50.090(4) as authorizing it to conduct additional public hearings ~~as of either the "local public informational hearings," "public land use consistency hearings" or "adjudicative proceedings."~~ variety. The council may also hold public meetings concerning the application for site certification.

[Statutory Authority: RCW 80.50.040. 91-03-090, 463-14-030, filed 1/18/91, effective 2/18/91; Order 104, 463-14-030, filed 11/4/76.]

WAC 463-14-040 County, city and port district representatives--Segmentation of hearings and issues. RCW 80.50.030 (4), (5) and (6) necessitate segmentation of hearings and issues in instances where proposed energy facilities would extend beyond the boundaries of a single county, city and/or port district.

[Statutory Authority: RCW 80.50.040(1). 78-09-078 (Order 78-5), 463-14-040, filed 8/28/78; Order 104, 463-14-040, filed 11/4/76.]

WAC 463-14-050 Preemption. Chapter 80.50 RCW operates as a state preemption of all matters relating to energy facility sites. Chapter 80.50 RCW certification is given in lieu of any permit, certificate, or similar document which might otherwise be required.

[Order 104, 463-14-050, filed 11/4/76.]

~~**WAC 463-14-060 Open meetings with full discussion.** All council proceedings are to be conducted in a manner consistent with the spirit of the state Open Meetings Act, and not merely according to the letter of that law. To this same end, full and open discussion between council members themselves, as well as between council members, members of the staff and persons appearing before the council, shall be fostered and encouraged at all regular and special meetings.~~

~~[Order 104, 463-14-060, filed 11/4/76.]~~

WAC 463-14-070 Integration of council activities with federal agency activities. In

consonance with RCW 80.50.040(10), the council hereby adopts a policy of holding joint hearings, whenever practical and desirable, with federal agencies having jurisdiction over matters affecting certification under chapter 80.50 RCW.

[Statutory Authority: RCW 80.50.040(1). 98-01-081, 463-14-070, filed 12/12/97, effective 1/12/98; Order 104, 463-14-070, filed 11/4/76.]

WAC 463-14-080 EFSEC deliberative process. RCW 80.50.100 requires the council to report to the governor its recommendation as to the approval or rejection of an application for certification. In order for the council to develop such a recommendation it shall utilize a deliberative process for analysis and evaluation of an application to determine compliance with the intent and purpose of chapter 463-42 WAC. The council will contract for an independent consultant study of the application. An environmental impact statement also will be adopted.

The council during the deliberative process will conduct an extensive public hearing as an adjudicative proceeding for the presentation of evidence on the application. The council will conduct sessions for the taking of public testimony concerning the proposed project. The council will evaluate public comments received as part of the environmental review. The council throughout all of the deliberative process will consider any laws or ordinances, rules or regulations which may be preempted by certification. The council in open session, when fully satisfied that all issues have been adequately discussed will consider and by majority decision will act on the question of approval or rejection of an application.

[Statutory Authority: RCW 80.50.040. 91-03-090, 463-14-080, filed 1/18/91, effective 2/18/91. Statutory Authority: RCW 80.50.040(1). 81-20-028 (Order 81-4), 463-14-080, filed 9/30/81.]

463-14—XXX Council overhead costs. Overhead costs incurred by the council for maintenance of office space and other services necessary for the performance of general council activities required under Chapter 80.50 RCW and Chapter 463 WAC may be charged to those applicants, certificate holders, and requestors of potential site studies that have projects under council review or jurisdiction.